

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION
COMMITTEE ON BUSINESS AND INDUSTRY**

Call to Order: By **CHAIRMAN JOHN HERTEL**, on March 8, 1999 at
10:00 A.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. John Hertel, Chairman (R)
Sen. Mike Sprague, Vice Chairman (R)
Sen. Dale Berry (R)
Sen. Vicki Cocchiarella (D)
Sen. Bea McCarthy (D)
Sen. Glenn Roush (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Bart Campbell, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:
Executive Action: HB 63; HB 121; HB 150; HB 154;
HB 155; HB 171; HB 153

{Tape : 1; Side : A; Approx. Time Counter : 0}

EXECUTIVE ACTION ON HB 63

Motion: SEN. COCCHIARELLA moved that HB 63 BE CONCURRED IN.

Discussion: SEN. MIKE SPRAGUE said that he had concerns over the
standards that are being put together. The standards are going
to be changed in 2000 and the state would be out of step again.
Something needs to be done about the standards but he was not
sure if this bill would properly address the issue.

SEN. JOHN HERTEL said that he was confused in so far as the Department of Commerce was still working on the 1991 codes level. Why haven't the standards been raised to a more recent year level? The proponents were mostly plumbers and the opponents were from the Department. Should the legislature be involved in this process of setting standards?

SEN. GLENN ROUSH asked about amendments that had been suggested.

SEN. HERTEL said there were no amendments that had been proposed by a committee member. Two sets of amendments had been proposed by the Department, but the sponsor said that he did not want either set as they would effectively kill the bill.

SEN. ROUSH felt that the legislature should not be legislating on each aspect of the bill and should not withhold from the Department the authority to move on setting standards.

SEN. COCCHIARELLA said that the most bothersome thing to her is the fact that the Department of Commerce has so much say over what is happening in these "licensed" arenas. They are not in step; they do not communicate with local governments; no one is operating uniformly in the state as far as enforcement is concerned with the use of the 1991 Codes. She is not sure if this is the proper approach but it is better than allowing the Department to continue in such a slow manner. Something must be done. There is so much going on in that Department that is under the surface. She is not sure exactly what it is with the Building Codes Division. There is a dynasty being created that limits the licensing boards that have anything to do with building codes. This bill is a sound, simple step to move them forward and it can be undone next session. It would at least get them to current codes. Actually, it doesn't go far enough. It should say we will keep adopting the new codes as they come along. Every two years with the legislature overseeing the adoption of new codes is better than the Department updating the last set of plumbing codes from 1991. The Building Codes Division is having such an impact at local levels and statewide levels and there is no oversight. Their Advisory Committee does nothing and has no authority. They need to be brought up to date.

SEN. BEA MCCARTHY asked about the codes that end in 2000. **SEN. COCCHIARELLA** said that section was addressing the International Building Codes and it was predicted that by 2000, the present codes would be replaced by the International Residential Codes, 2001.

SEN. SPRAGUE said that he would like an explanation of "international codes" and where the rules were coming from.

SEN. HERTEL asked Jim Kembel to explain these codes.

James Kembel, MT Technical Council. What is happening is the three model code groups in the United States have joined forces. They are the Southern Building Code Congress (SBCC), the Building Officials of Code Administrators (BOCA), and the International Conference of Building Officials (ICBO). They have been working to merge all of their codes into one document. The word "international" or "united nations" does raise many problems. But these groups were asked in their process to use the term "international" because there have been some countries, like Japan, which have had an interest in using the codes that are being developed. These codes are aimed at a world market. If a foreign country chooses to use the International Building Codes series, then the ability of the U.S. to trade with foreign countries is enhanced. The ability to do business between the states is also enhanced. With three model codes, the Southern being in the south, the BOCA in the northeast and the International running pretty much west of the Missouri, there are conflicts between the three. This can hamper manufacturers. Although interpretation may be a problem, at least there will be a basic document that all contractors, manufacturers and code officials can be familiar with. The International series comes out in 2000. These groups have stopped publishing their own documents and they are all going to start with the International series in 2000. The Uniform Plumbing Code, which is offset by an International Plumbing Code, will continue under the International Assoc. of Plumbing & Mechanical Officials (IAPMO) in conjunction with the National Fire Protection Association (NFPA). That code will be continued with that organization. The National Electrical Code is used across the United States and is highly recognized and that will stay as an independent electrical code and will continue as such. Basically, the Uniform Building Code, as it is known today, will be gone in 2000. In 2001, the legislature will need to convene and amend the statute to allow International Codes or another to be adopted.

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SEN. SPRAGUE said that if the legislature brings the codes up to date, it will be out of date by 2000.

Jim Kembel said that Montana, if this legislation is adopted, at the year 2000 will be stuck with the 1997 edition of the Uniform Building Codes which will not be updated anymore. At that point something else will have to be done. But with the time frames that are necessary for all concerned, the state will be out about

18 months before the 2000 International Codes can be adopted. These Codes are published every three years.

SEN. COCCHIARELLA said that if Montana continues to operate the way it has been operating it will be 2006 before the state gets an update from the Building Codes Division. They are not moving at all. They didn't adopt the 1997 changes; they adopted the 1994 amendments. Their track record is deplorable and something needs to be done about the situation.

Mr. Kembel said that in the case of the plumbing codes, that is correct. That is unfortunate. As designers, there is great frustrations when they look at a new edition of the code that could help in a design. But with a new edition that could be used, they have to appeal to jurisdiction to be able to use the new methods.

SEN. DALE BERRY said that he did not like to see the legislature get statutorily involved. He went on to tell about an experience of his own. An expensive home that he sold was plumbed by a plumber who used the old code. An inspector came in and inspected the one-year old home with his company's international code of standards. He brings up discrepancies in the plumbing. The plumber says that the plumbing is up to code. The buyer is saying no it isn't because. . . The consumer is being caught in the middle of this mess. There is a problem and he is not sure how to go about rectifying the problem.

SEN. SPRAGUE was concerned about who might get hurt with the passage of the bill. An effective date had been talked about and he wondered when the bill would take effect.

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SEN. COCCHIARELLA talked about the second amendment, "Amendment Alternative #2" that the Department had proposed.

Mr. Campbell explained that a sunset on the bill would make the statute return to its original wording prior to any amendments. Whatever action is taken on this bill, in 2001, when there is an International Code, someone will carry a bill to update Montana and have the state accept the International Codes.

SEN. COCCHIARELLA asked if there was any good reason not to adopt the International Codes. **SEN. HERTEL** said that he heard nothing that would make a case for not accepting the International Codes when they were prepared.

SEN. COCCHIARELLA talked about putting on an amendment, with agreement from other members, that would force the bill to go into a conference committee and get it straightened out there.

Motion: **SEN. COCCHIARELLA** moved that HB 63 BE AMENDED with the "Amendment Alternative #1" **EXHIBIT**(bus52a01) from the Department of Commerce.

Mr. Campbell will have it edited and prepared by tomorrow, March 9, 1999.

Discussion: **SEN. SPRAGUE** asked **Jim Kembel** to offer his input. **Mr. Kembel** said that he assumed that the amendment would take all the bill out except for the section on plumbing. He offered another way. Currently, state statutes tell Building Codes that they should use nationally recognized standards. Perhaps the committee could take everything out except "they shall be updated within six months of the publication of that nationally recognized standard." That would leave it open to use the International Plumbing Code or any other codes that are available. This would keep it consistent with the current authority to adopt nationally recognized standards and just add the above statement.

SEN. ROUSH asked about the Advisory Committee from another bill. That was a good bill. He felt that the Advisory Committee should have more power and wondered if they would have any bearing on this bill in relationship to updating codes.

Mr. Kembel said that would help. He had worked with **REP. BRUCE SIMON** on that particular piece of legislation. There were some who wanted to see the Advisory Committee become similar to a licensing board authority, and that the Department of Commerce would have to take their recommendations to them. That would require a complete rewriting of HB 245. It does give the Advisory Committee more stature.

Vote: Motion carried 4-2 with **SEN. BERRY** AND **SEN. ROUSH** voting no.

Motion/Vote: **SEN. COCCHIARELLA** moved that HB 63 BE CONCURRED IN AS AMENDED. Motion carried 4-2 with **SEN. BERRY** and **SEN. ROUSH** voting no.

SEN. VICKI COCCHIARELLA will carry the bill on the Senate Floor.

{Tape : 1; Side : A; Approx. Time Counter : 31.6}

EXECUTIVE ACTION ON HB 121

Motion/Vote: SEN. MCCARTHY moved that HB 121 BE CONCURRED IN.
Motion carried unanimously. 6-0

SEN. BEA MCCARTHY will carry the bill on the Senate Floor.

EXECUTIVE ACTION ON HB 150

Motion: SEN. MCCARTHY moved that HB 150 BE CONCURRED IN.

Discussion: Motion/Vote: SEN. MCCARTHY moved that HB 150 BE
AMENDED **EXHIBIT**(bus52a02). Motion carried unanimously. 6-0

Motion/Vote: SEN. MCCARTHY moved that HB 150 BE CONCURRED IN AS
AMENDED. Motion carried unanimously. 6-0

SEN. BEA MCCARTHY will carry the bill on the Senate Floor.

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EXECUTIVE ACTION ON HB 153

Motion/Vote: SEN. COCCHIARELLA moved that HB 153 BE TABLED.
Motion carried unanimously. 6-0

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EXECUTIVE ACTION ON HB 154

Motion: SEN. BERRY moved that HB 154 BE CONCURRED IN.

Discussion: Mr. Campbell said that he had a note from REP.
GALLUS, sponsor, asking to have an immediate effective date put
on the bill.

Motion: SEN. MCCARTHY moved that HB 154 BE AMENDED with an
immediate effective date.

Discussion: SEN. SPRAGUE said that some people may have money invested in advertisement or whatever for a promotion and he didn't want to unintentionally hurt someone. Mr. Campbell said that bills usually have an October 1 effective date unless there is a compelling reason to have another date. Most laws then take effect when people have them in their hands.

Vote: Motion that HB 154 BE AMENDED with an immediate effective date failed 1-5 with SENATORS COCCHIARELLA, HERTEL, MCCARTHY, ROUSH, and SPRAGUE voting no.

Vote: Motion that HB 154 BE CONCURRED IN carried unanimously.
6-0

SEN. DALE BERRY will carry the bill on the Senate Floor.

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EXECUTIVE ACTION ON HB 155

Motion: SEN. ROUSH moved that HB 155 BE CONCURRED IN.

Discussion: **Motion:** SEN. ROUSH moved that HB 155 BE AMENDED.

Discussion: Mr. Campbell explained the amendments **EXHIBIT (bus52a03)**. These amendments were proposed as friendly amendments and were accepted by the sponsor. It just takes surety companies out of the bill. It leave the bill to address property-casualty policies.

Vote: Motion that HB 155 BE AMENDED carried unanimously. 6-0

Motion/Vote: SEN. ROUSH moved that HB 155 BE CONCURRED IN AS AMENDED. Motion carried unanimously. 6-0

SEN. GLENN ROUSH will carry the bill on the Senate Floor.

EXECUTIVE ACTION ON B 171

Motion/Vote: SEN. COCCHIARELLA moved that HB 171 BE CONCURRED IN. Motion carried unanimously. 6-0

SEN. VICKI COCCHIARELLA will carry the bill on the Senate Floor.

ADJOURNMENT

Adjournment: 11:00 A.M.

SEN. JOHN HERTEL, Chairman

MARY GAY WELLS, Secretary

JH/MGW

EXHIBIT (bus52aad)